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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/964,305 11/04/97 KATZ

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EXAMINER

AU. A

ART UNIT

PAPER NUMBER

2713 12

DATE MAILED:

04/13/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 10/30/96, ~~10/11/97~~ 11/4/97, and 2/9/98

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire -3- month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 17-19 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 17-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Specification

1. The application is objected to because of alterations which have not been initialed and/or dated as is required by 37 CFR 1.52© and 1.56. A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by serial number and filing date is required.

The specification contains numerous handwritten alterations which would require a new oath or declaration. See pages 6 and 11. Further the handwriting on page 11 are illegible.

Double Patenting

2. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 17-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-20 of copending Application No. 08/963,992. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to use the equivalent method as set forth in the copending application for the claimed system, and while the claims in the two applications are not duplicates, they are so close in content that they both cover the same thing, despite a slight difference in wording.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

4. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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Claim 17, step f) claims “means for selectively positioning the alphanumeric characters of the digital transaction signals on the video image.” However, there is no support in the specification for “*selectively positioning* the alphanumeric characters ..on the video image.”

5. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

claim 19, “the verifying means” has no antecedent basis.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (P.N. 4,641,203) in view of Clever (P.N. 4,145,715).

Re claim 18, Miller discloses a system for processing related simultaneously recorded video and digital data comprising means (video camera 34) for generating video signals of behavioral events corresponding to a desired transaction (scene or event 66; col. 5, lines 11-12)

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and marking the video signals with a sequence code from a sequence code source (col. 5, lines 43-45); means for storing the sequence coded video signals in a predetermined storage medium (video tape); means (44) for generating digital signals representing data for said transaction, said digital signals include signals representing alphanumeric characters corresponding to the transaction (col. 5, lines 22-24), and marking the digital signal with a matching sequence code signal from an electronic system source (col. 5, lines 41-43); means for storing the sequence coded digital signal in a storage medium different from said predetermined storage medium (diskette); means for retrieving selected stored signals via its sequence code signal (col. 3, lines 3-10); means for retrieving selected stored digital signals via its sequence code signal (col. 3, lines 3-10);

Miller fails to disclose an common electronic system source for producing the sequence code signal. Miller uses the same type of sequence code signal for both the video signal and the data signal. Therefore, it would have been obvious to employ a common electronic system to produce the same sequence code since the same sequence code is being employed by types of signals.

Miller discloses using two displays, but fails to disclose forming a composite video-digital signal by selectively superimposing the signals. Clever teaches a composite signal by superimposing a digital signal on the corresponding retrieved video signals wherein the alphanumeric characters overlies the corresponding behavioral event. Therefore, it would have

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been obvious to one skilled in the art to modify Miller to generate a composite signal as taught by Clever to reduce the need for two monitors.

Re claim 17, claim 17 contains substantially the same limitations as claim 18 except claim 17 claims asynchronously storing separate digital signals representing data from the transaction. Miller discloses that the digital signal may be stored asynchronously at a later time (col. 3, lines 41-46).

Re claims 17 and 19, Miller fails to disclose verifying that the digital transaction signals have not been altered, destroyed, or otherwise tampered with. However, means for checking that the data has not been altered, destroyed, or otherwise tampered such as the encrypted checksum method is well recognized in the art. One skilled in the art would recognize the need to protect the validity of the digital data to ensure that the data is original and unaltered. Therefore, using the encrypted checksum, which is common in the art, on the digital data lacks an inventive step.

Further, there is no inventive step involved in selectively positioning data on the screen (step f in claim 17). It is well recognized in the art that it is undesirable to have overlapping data because it would obscure the picture. Therefore selectively positioning the data signal would be obvious.

Response to Arguments

8. Applicant's arguments filed 2-9-98 have been fully considered but they are not persuasive.

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Applicant argues in the remarks that applicant's invention broadly relates to surveillance systems that record buffered point-of-sale (POS) transaction events for review at a later time by employing video cameras to monitor and record transactions and employing cash register, bar code reader or other registering device to collect digital data relating to the transaction. This is not persuasive because the claims do not reflect this. The claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Examiner suggests amending the claims to reflect the actual invention as disclosed in the specification to narrow the scope of the claims.

Applicant's arguments with regard to the Miller reference has been noted. However, the claims still read on the disclosure of Miller. Miller discloses applicant's inventive concept which is to tag two different types of signals with a common identifying code and later use the common identifying code to match the signals together. All the other differences between the two inventions are either obvious variations or functionally equivalent elements. While Miller uses different elements such as a cassette tape and manual entries through a keyboard, the claims do not preclude the use of these elements. As to the feature of having two displays rather than superimposing the video and data signals, there is no inventive step to overlaying data onto one display. It is well recognized in the art overlaying different signals onto one display would provide improved viewing so the user would not have to switch between monitors.

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Applicant's arguments with regard to Clever has been noted. However, Clever was used to show how common it is to combine different signals for display on a single screen. As to applicant's argument that Clever uses black out portions, the claims do not preclude having a black out portion. As to applicant's arguments that Clever does not selectively place transaction data on the video image, claim 18 does not call for this limitation, and in any event, it is well recognized in the art that it is obvious to selectively place display data in any advantageous location.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amelia Au whose telephone number is (703) 308-6604. The examiner can normally be reached on Monday - Thursday from 6:30 am - 4:00 pm EST. The examiner can also be reached on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

The fax phone number for Formal or Official faxes is (703) 308-9051 or (703) 308-9052. The fax number for informal or draft faxes is (703) 308-5399.


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